

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother,  
HEATHER JACKSON,**

**Plaintiff,**

**v.**

**Civil Action No. 2:21-cv-00316  
Honorable Joseph R. Goodwin, Judge**

**WEST VIRGINIA STATE BOARD OF EDUCATION,  
HARRISON COUNTY BOARD OF EDUCATION,  
WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION, W. CLAYTON BURCH  
in his official capacity as State Superintendent, and  
DORA STUTLER in her official capacity as  
Harrison County Superintendent,  
Defendants,**

**And**

**LAINEY ARMISTEAD,  
Defendant-Intervenor.**

**WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION'S  
MOTION IN LIMINE TO PRECLUDE PLAINTIFF  
FROM OFFERING AS EVIDENCE THE ASSERTIONS CONTAINED IN  
PLAINTIFF'S STATEMENT OF UNDISPUTED FACTS**

Now comes West Virginia Secondary School Activities Commission (WVSSAC), by counsel, Roberta F. Green, Kimberly M. Bandy, Shannon M. Rogers and Shuman McCuskey Slicer PLLC, and moves the Court for an order in *limine* to preclude Plaintiff from characterizing any evidence as an “undisputed fact” absent a stipulation between the parties to that effect. Plaintiff filed “Plaintiff’s Statement of Undisputed Facts” (ECF No. 290) in support of Plaintiff’s Motion for Summary Judgment (ECF No. 289), providing a list of “facts” characterized as agreed-upon evidence. In light of Plaintiff’s representation of the evidence and mischaracterization and/or overstatement of these statements as being “undisputed,” the admission of this evidence presented

as undisputed would be extremely prejudicial and is not supported by the record. Additionally, the statements of “undisputed facts” create a risk of unfair prejudice, confusion, and waste of time such that they should not be admitted as evidence at trial or used for any other purpose.

Wherefore, for these reasons and those set out further in the Memorandum in support, WVSSAC moves this Court for an order *in limine* to preclude use of the alleged ‘undisputed facts’ at trial, absent a stipulation to that effect.

**WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION,  
By Counsel.**

**/S/ Roberta F. Green**

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**CERTIFICATE OF SERVICE**

I hereby certify that I, Roberta F. Green, have this day, the 22<sup>nd</sup> \ day of June, 2022, served a true and exact copy of the foregoing **“West Virginia Secondary School Activities Commission’s Motion in Limine to Preclude Plaintiff From Offering as Evidence The Assertions Contained in Plaintiff’s Statement of Undisputed Facts”** with the Clerk of Court using the CM/ECF System, which will send notification of such filing to the following counsel of record:

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